Record of Decision

U. S. Department of Transportation

Federal Highway Administration

PIN 8006.72

NYS ROUTE 17 AT EXIT 122

TOWN OF WALLKILL

ORANGE COUNTY

FHWA-NY-EIS-07-04-F

This Record of Decision (ROD) considers the proposal by the New York State Department of Transportation (NYSDOT) to improve the safety and operation of New York State (NYS) Route 17 at the Exit 122 interchange and to upgrade the interchange to Interstate standards. This project is in conformance with the 1998 federal legislation, the Transportation Equity Act for the 21st Century (TEA-21), which designated NYS Route 17 for inclusion in the Interstate Highway System as I-86.

The project lies entirely within the Town of Wallkill in Orange County, State of New York. The project includes 2.02 km (1.26 mi) of NYS Route 17 beginning 200 m (656 ft) east of Exit 121 (I-84) and extends easterly on NYS Route 17 through Exit 122 (Crystal Run Road) to 1000 m (3,300 ft) east of the Wallkill River Bridge. The project area also includes 0.6 km (0.4 mi) of East Main Street (County Road 67) to the west of the Exit 122 interchange and 1.3 km (0.8 mi) of Crystal Run Road to the east of the Exit 122 interchange.

The NYSDOT prepared an Expanded Project Proposal (EPP) for the study of the NYS Route 17 at Exit 122 project, which was approved in January 2002. This study considered 16 alternatives and recommended that two alternatives, Alternatives 2C and 2E, be carried forward for further study. A Notice of Intent to prepare an Environmental Impact Statement (EIS) was published in the Federal Register on January 15, 2002. A formal NEPA scoping meeting was held at the Wallkill Town Hall on February 11, 2002.

The Federal Highway Administration (FHWA) in partnership with the NYSDOT prepared a Draft Design Report/Draft Environmental Impact Statement (DDR/DEIS) to evaluate alternatives and environmental issues for the subject project. The DDR/DEIS was circulated on June 8, 2007 for public and agency review and a public hearing was held on June 25, 2007. On March 19, 2008 an Agency Coordination Meeting was held to coordinate the review of agency comments and seek resolution on issues prior to distributing the FDR/FEIS. The meeting was conducted at the US Environmental Protection Agency (EPA) Office in New York, New York and attended by NYSDOT, FHWA, EPA, the US Army Corps of Engineers, the New York State Department of Environmental Conservation, the NY State Historic Preservation Office, the US Fish and Wildlife Service, the National Marine Fisheries Service, and consultant staff.

Following the meeting and additional follow-up with agency staff, the FHWA determined that the requirements of the National Environmental Policy Act (NEPA) of 1969 were satisfied for the proposed project and signed the title sheet to the April 2008 version of the FDR/FEIS on July 21, 2008. A Notice of Availability for the FDR/FEIS was published in the Federal Register on August 8, 2008.

A. DECISION

The action recommended by the New York State Department of Transportation (NYSDOT) and adopted by the Federal Highway Administration (FHWA) is the reconstruction of NYS Route 17 at Exit 122 as defined by Alternative 2C(1) - Loop Ramp Interchange with Signalized Intersections in the Final Design

Report/Final Environmental Impact Statement (FDR/FEIS). This selected alternative consists of the most compact reconstructed interchange ramp configuration providing for new loop and diagonal ramps connected to relocated sections of East Main Street and Crystal Run Road. The selected alternative meets the purpose and needs of the project to improve the safety and operation of Exit 122 and bring NYS Route 17, future I-86, and the existing interchange up to current Interstate standards for an Urban Principal Arterial Interstate. Additionally, it provides for a fully access controlled interchange while minimizing adverse social, economic and environmental impacts to the extent practicable. The goals and objectives to remedy the identified purpose and needs have been:

- Improve NYS Route 17 and Exit 122 geometric deficiencies to meet Federal Interstate standards.
- Improve the safety and operation of NYS Route 17, Crystal Run Road and East Main Street for existing and reasonably foreseeable increases in traffic due to planned development in the area.
- Design improvements to avoid and minimize social, economic and environmental impacts. Incorporate environmental initiatives where practical.
- Provide cost effective and properly scaled improvements.

B. ALTERNATIVES CONSIDERED

The selected alternative, along with five other alternatives developed in the environmental process, are fully described in the *Summary, Preferred Alternative* and *Chapter III: Alternatives* sections of the FDR/FEIS document dated April 2008. The alternatives considered and explanations of the balancing of values which form the basis for FHWA's decision, including the identification and selection of the environmentally preferred alternative, are summarized below.

No-Build (Null) Alternative

The No-Build (Null) Alternative would maintain the existing roadway section and geometry. No improvements would be implemented other than routine maintenance, and no existing physical or operational problems or deficiencies would be corrected. This alternative does not meet the

project purpose and needs, specifically the standards required to achieve future designation as Interstate 86.

Alternative 2C: Loop Ramp Interchange and East Main Street Extension

This alternative would provide a symmetrical interchange ramp configuration with loop ramps connected to an extension of East Main Street. East Main Street would be extended north, intersecting Crystal Run Road at Ballard Road. Crystal Run Road would be realigned adjacent to NYS Route 17, intersecting with East Main Street Extension. The existing Crystal Run Road Bridge over NYS Route 17 would be removed and a new one constructed. Auxiliary ramps would be provided between Exits 122 and 121 to separate the weaving maneuvers from mainline NYS Route 17. Of all the build alternatives, Alternative 2C would create the largest construction footprint on the project area and require the highest cost to construct, including the highest local share cost.

Alternative 2C would require 94 acres of right-of-way acquisition and displace 5 businesses and 2 residences, producing the greatest impact to right-of-way of any build alternative. It would also have the greatest impact on wetlands (combined jurisdictional and non-jurisdictional) by affecting a total of 3.38 acres. The construction of Alternative 2C would also have the largest impact on the ecology and wildlife of the area by affecting 28.7 acres of forested area, which would also affect the habitat for the Indiana bat, an endangered species. This alternative would best fulfill the objectives of local and County comprehensive/master plans, as the extension of East Main Street and the realignment of Crystal Run Road would provide the best potential for economic development in the surrounding area. It would also have the greatest impact to visual resources as a result of visual changes from the relocation and reconfiguration of exit 122 combined with the extension and widening of East Main Street and realignment of Crystal Run Road. Additionally, this alternative would affect the greatest amount (28.87 acres) of soils for Farmland of Statewide Importance. These impacts resulting from Alternative 2C combine to

produce the greatest indirect/secondary and cumulative impacts caused by any of the build alternatives.

Alternative 2C Modified: Loop Ramp Interchange

This alternative is similar to Alternative 2C in that it would provide a symmetrical interchange ramp configuration with loop ramps connected to East Main Street. However, this alternative would not extend Crystal Run Road as in Alternative 2C to make the connection to East Main Street. Instead, East Main Street extension would be constructed to provide two travel lanes in each direction and a center turn lane. The Crystal Run Road/ East Main Street Extension/ Ballard Road intersection would be widened to accommodate the necessary turning traffic. Alternative 2C Modified would have lower costs than Alternative 2C, requiring no local share.

This alternative would have the greatest impact to surface water quality by increasing the impervious area by 17 acres and it would have the least impact to jurisdictional wetlands, affecting 1.92 acres. While not as severe as Alternative 2C, the extension of East Main Street would disturb a large forested tract (25.6 acres). Additionally, the disconnection of Crystal Run Road from East Main Street Extension in the proximity of the proposed ramps drew public opposition during the public hearing and comment period due to unacceptable community impacts with regard to access for businesses and emergency services. The disconnect to NYS Route 17 combined with the reconfiguration of Crystal Run Crossing/Crystal Run Road as a dead end roadway would create a limited access area. Therefore the ability for emergency responders to travel to and from the area and the ability of businesses, especially highway dependent businesses, to sustain or thrive, would be severely diminished.

Alternative 2C(1): Loop Ramp Interchange with Signalized Intersections – **Selected Alternative**

This alternative would provide a symmetrical interchange ramp configuration with loop ramps connected to East Main Street similar to Alternative 2C. However, under Alternative 2C(1), Crystal Run Road would be realigned to connect to East Main Street and the East Main Street

extension would not be constructed. Alternative 2C(1) could accommodate future roadway construction of an East Main Street extension if planned and approved through the local government planning process and built by others. Also, the Crystal Run Road Bridge over NYS Route 17 would be removed and replaced in a location closer to the Wallkill River and auxiliary ramps would be provided between Exits 122 and 121 to separate the weaving maneuvers from mainline NYS Route 17. The estimated cost of this alternative would be lower than all other build alternatives, except for alternative 2E.

Alternative 2C(1) would require 63 acres of right-of-way acquisition and displace 5 businesses and 1 residence, producing the least impact to right-of-way of any build alternative. It would impact 363 m (1,191 linear feet) and add fill to 0.45 acres of streams for the least impact on streams. It would impact 3.1 acres of floodplain, which is less than the 3.3 acres of impact that would be produced by Alternative 2E. Alternative 2C(1) would impact 15.4 acres of forested area, which would be the least impact to habitat suitable for the endangered Indiana bat. Consequently, Alternative 2C(1) would also have the least impact on the ecology and wildlife in the project area.

The environmentally preferred alternative is the alternative that will promote the national environmental policy as expressed in Section 101 of NEPA (42 USC § 4331), which includes the National goal to "...achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities." To achieve an alternative that meets the criteria of environmentally preferred all alternatives have gone through an extensive public involvement process with many interested agencies, the public and elected officials. As a result, the environmental effects of each alternative have been qualitatively and quantitatively evaluated to the extent practicable. The decision to select an alternative that is environmentally preferred considers the qualitative nature of weighing and balancing the multiple effects on the environment and the ability of each alternative to mitigate the adverse effects. Alternative 2C(1) meets the purpose and need of the project and offers an acceptable balance between population

and resource use which will permit high standards of living and has therefore been determined to be the **Environmentally Preferred Alternative.**

Alternative 2C(2): Loop Ramp Interchange with Roundabouts

This alternative is similar to the proposed alignment and improvements shown in Alternative 2C(1) with the exception that the signalized intersections would be replaced with four roundabouts. As a result, the proposed NYS Route 17 westbound off-ramp would be constructed with a profile grade of 7%, which is above the maximum Interstate standard of 6% for ramp profiles.

Alternative 2C(2) would impact 2.88 acres of jurisdictional wetlands, which is the highest impact to jurisdictional wetlands of any build alternative. Also, through the public involvement process, the use of roundabouts obtained little community or political support. However, this alternative would lower emissions of carbon monoxide (CO), nitrous oxide (NOx), volatile organic compounds (VOC) and particle matter ($PM_{2.5}$ and PM_{10}) over the no-build for an overall benefit to air quality. It is also the only build alternative that would decrease the energy consumption over the no-build for the least impact on energy use. Alternative 2C(2) would also convert 18 acres of Farmland of Statewide Importance, which is the least of the build alternatives.

Alternative 2E: Loop - Diamond Ramp Interchange

This alternative would provide an unsymmetrical ramp configuration for Exit 122 with new on- and off-ramps that intersect with a realigned Crystal Run Road. One pair of loop ramps would serve NYS Route 17 westbound traffic. A pair of diamond ramps would serve eastbound traffic. This alternative would not be able to eliminate both existing eastbound and westbound weaves on NYS Route 17, between exits 121 and 122, as designed into all other build alternatives. Instead, the westbound NYS Route 17 weave would remain, creating an unacceptable Level of Service (LOS D) in the design years for Interstate standards. In addition, the ramp intersections with East Main Street and Crystal Run Road would require 2-lane left turn movements onto each

ramp as a minimum, and more than any other build alternative. Therefore, Alternative 2E would not provide long term operational improvements to the interchange. It would require the lowest cost to construct of the build alternatives.

Alternative 2E would impact 7 archaeological sites, which is the fewest number of archaeological resources of any build alternative. It would increase the impervious area by 10.8 acres and therefore have the least impact on water quality. It would have 1.72 acres of direct and indirect impacts to wetlands (both jurisdictional and non-jurisdictional), which is the least of any build alternative. It would encroach on 3.3 acres of floodplain fringe, which is more than any other build alternative, and it would and have the least impact on the visual environment. Alternative 2E would limit access for future development, which would result in less indirect/secondary and cumulative impact. However, this alternative would preclude future development with access to the interchange, offering the least opportunity for economic enhancement, which is a goal for the community, as stated in their Town and County Master/Comprehensive plans.

IMPORTANT FACTORS IN THE DECISION MAKING PROCESS

Please refer to the FDR/FEIS, *Section V* for a comparison of the environmentally preferred Alternative with the other alternatives including the No-Build Alternative. The decision to advance Alternative 2C(1) as the Selected Alternative is based on a variety of complex factors including the ability to meet project objectives, public support, environmental agencies' concerns, and degree of social, economic and environmental impacts. As documented in the FDR/FEIS, the No-Build Alternative fails to meet the project objectives. The remaining alternatives satisfy the evaluation criteria to varying degrees; however, Alternative 2C(1) was selected for the following reasons:

While Alternative 2E would have the least environmental impact in several categories and is the least costly, Alternative 2E would be counter to local plans in that it would preclude future development with access to the interchange. It would also be only marginally effective in reducing operational

deficiencies. Alternative 2E was therefore not the selected alternative. While Alternative 2C(2) would be beneficial to air quality, there would be other adverse impacts such as those on jurisdictional wetlands, and there has been public resistance to the use of roundabouts. This alternative was therefore not the selected alternative.

Alternative 2C Modified was proposed to provide the potential for future development found in Alternative 2C, but with less cost and fewer environmental impacts. This alternative was proposed as the Preferred Alternative in the DDR/DEIS.

During the public comment period, held from June 8, 2007 to July 25, 2007, all of the alternatives were presented to the public and involved agencies for their review and comment. NYSDOT analyzed comments from all the individuals, organizations and agencies. The New York State Police, emergency responders and local businesses along Crystal Run Road and Crystal Run Crossing had a significant concern with the access to the proposed interchange that Alternative 2C Modified would provide. The major concerns with Alternative 2C Modified were:

State Police access to NYS Route 17

The DDR/DEIS indicated that if Alternative 2C Modified were selected, Police officers would need an additional 95 seconds to gain access to NYS Route 17 if they were responding from their Troop F barracks on Crystal Run Road. Based on the letter dated August 17, 2007 they disagreed with this time assessment and indicated that the actual response time would be considerably higher. They indicated the response time did not take into account traffic volumes/backups at the intersections. They also indicated that they would have to cross these intersections under emergency response mode (lights and sirens) which increases the risk to the police officer and public. They also stated that if this route was blocked by an incident they would have no alternate route to gain access to NYS Route 17. The letter stated that Alternative 2C Modified was not acceptable. They did offer their support for Alternative 2C(1).

Emergency Responders

Alternative 2C Modified would increase response times to the east side of the Mechanicstown Fire District both within and outside the interchange area. Access to Crystal Run Road/Crystal Run Crossing, a highly populated area, would be compromised if East Main Street Extension were blocked, causing unnecessary danger to the public and responders.

Access to Businesses on Crystal Run Road and Crystal Run Crossing

Several of the business, hotel and restaurant owners on Crystal Run Crossing and Crystal Run Road voiced their concern over the change in access to their businesses that Alternative 2C Modified would provide. Their primary concern was that currently they have direct access to NYS Route 17 with the existing interchange configuration. They stated that a majority of their customers were from drive-by business and the proposed configuration offered by Alternative 2C Modified would put them at the end of a dead end roadway. They claimed that the proposed configuration would be very detrimental to their businesses.

Poor Level of Service at the Crystal Run Road/ Ballard Road Intersection

Alternative 2C Modified required adding double right and left turn lanes to both the Crystal Run Road and Ballard Road legs of the intersection. Even with the addition of these lanes, the Level of Service (LOS) at this intersection was the worst of all the Alternatives. The LOS was determined to be LOS D for the PM peak by the year 2010 and remained a LOS D through the year 2030. All of the other Alternatives provide an acceptable LOS C at this intersection.

As a result of these and other comments NYSDOT participated in a number of meetings with the New York State Police, area business representatives and local governmental leadership at the end of 2007 to try to mitigate these concerns. In January 2008 the NYSDOT submitted a letter to the meeting participants outlining the conclusions of the meetings and direction that would be taken in pursuing a preferred alternative for the project. The outcome of the coordination was to abandon Alternative 2C Modified and to advance Alternative 2C(1) "Loop Ramp Interchange with Signalized Intersections," as

the Preferred Alternative in the FDR/FEIS. No further comment has been received with regard to that decision.

The NYSDOT and the FHWA also determined that the section of Crystal Run Road formerly designated as "Local Funds" would be eligible for Federal funding to address the traffic and safety concerns in this section. This section of Crystal Run Road has an accident rate (4.02), above the statewide rate (3.74), with accident clusters (patterns) of rear-end (23 in 3 years) and left turns (14 in 3 years) most of which occurred in the vicinity of the Crystal Run Road/ Ballard Road intersection.

In summary, Alternative 2C(1) was selected based on its ability to fulfill the purpose of and need for the proposed project and to satisfactorily meet the project objectives while offering improved safety and operational benefits in conjunction with the ability to minimize overall social, economic and environmental effects.

C. Section 4(f)

This project does not require Section 4(f) approval.

D. Measures to Minimize Harm

All reasonable measures have been incorporated into the project to minimize environmental impacts. Such measures are more fully described in the FDR/FEIS. Also, there are many "best practice" environmental impact reducing requirements included in the NYSDOT's standard specifications, standard plans/notes and contract provisions which are not outlined here, but are included in construction contracts as required by NYSDOT procedures and policies. Construction of Alternative 2C(1) will require relocations and right-of-way impacts to businesses and residences. There will also be direct impacts to cultural resources, surface waters, wetlands, floodplains, endangered species, community resources and visual resources. There are seven sites of concern with regard to hazardous waste and contaminated materials. Alternative 2C(1) does not preclude future development that may be developed by others in accordance with the Town and County Master/ Comprehensive Plans.

Relocations and Right-of-Way: Efforts were made to avoid and minimize the amount of relocations and right-of-way required primarily through steeper fill slopes and by making adjustments to proposed alignments and curve radii. Section III.C.2.1 of the FDR/FEIS concludes that following avoidance and minimization, the selected alternative will result in the displacement of five (5) businesses and one (1) residence. NYSDOT will provide relocation assistance for the residential and commercial displacements required for the construction of the Selected Alternative. Property owners will be compensated for the sale of their properties in accordance with NYS law, FHWA policy and regulations, and the Uniform Relocation Assistance and Real Property Acquisitions Polices Act of 1970, as amended. Alternative 2C(1) requires an estimated 64 acres in property acquisition.

Cultural Resources – Discussion of impacts to cultural resources found within the project area is provided in Section IV.B.3.d of the FDR/ FEIS. A Finding Documentation, dated February 23, 2007, has also been prepared to assess the effect of the build alternatives on the historic properties and is included in Appendix T to the FDR/FEIS. No permanent or temporary right-of-way will be needed and no impairment to the use or activities associated with the historic property located at 758 East Main Street will occur as a result of the selected alternative. However, the NY SHPO has made an opinion that the selected alternative will result in an adverse effect on the setting of the property. The selected alternative will also affect contributing resources of the non-contiguous Wallkill Prehistoric Archaeological District. A summary of the adverse effects to the sites is shown by each build alternative on Table IV-24, FDR/FEIS. Project effects on each site are provided in Appendix T, Table 2. An executed Memorandum of Agreement (MOA) between the FHWA, NY SHPO, and NYSDOT was submitted to the Advisory Council on Historic Preservation, completing the Section 106 Consultation process. A copy of the signed MOA is located in Appendix T as Attachment C. Stipulations contained within the MOA include: assurance that landscaping will be designed and planted to minimize impacts of the project on the setting of 758 East Main Street; a requirement to follow the Data Recovery Plan (which is included in Appendix T to the FDR/FEIS) for the mitigation of adverse effects on archaeological resources within the Wallkill Prehistoric Archaeological District; site protection

measures for any sites that can be avoided; and procedures for the continuation of consultation as the field investigations progress.

Surface Waters - The selected alternative will require widening of the existing NYS Route 17 bridge over the Wallkill River; a new structure to carry East Main Street over Phillipsburg Creek; the relocation of portions of Phillipsburg Creek, and the construction of a new culvert under NYS Route 17 to the west of the location of the existing culvert. This will result in an estimated impact to 1808 m^2 (0.45 acres) of the Wallkill River as shown in revised Table IV-22 in Section E of this document; an estimated linear impact to 363 m (1,191 ft) of stream as shown in the revised Table IV-11 in Section E of this document; and to an estimated 1854 m^2 (0.45 acres) of fill to streams as shown in the revised Table IV-11a in Section E of this document. The selected alternative was designed to avoid and minimize impacts to surface waters primarily through steeper fill slopes, adding retaining walls to limit cuts and fills, and by making adjustments to proposed alignments and curve radii. As described in Section IV.B.3.a(i) of the FDR/FEIS, the lengths of culverts proposed for Phillipsburg Creek will be minimized to maximize open stream area. Stream work will be scheduled during low flow periods to minimize impacts to the stream. To the extent possible, existing structures will be replaced with new structures that will provide a natural bottom. This will improve existing conditions and help preserve aquatic habitat and provide for wildlife connectivity. Although the proposed culvert for Phillipsburg Creek under NYS Route 17 is longer in length than the existing culvert, it will replace 62 m (203 ft) of an existing box culvert that provides no natural substrate with a new bottomless or embedded culvert that will provide a new natural stream channel with a natural stream bottom. This use of natural bottom design will therefore produce a net benefit of the proposed culvert over the existing culvert. The culvert will also be appropriately designed to provide passage for fish and other aquatic organisms. For in-kind mitigation, natural stream channel design practices and bioengineering practices suitable for this location will be considered in final design. Out of kind mitigation options, such as establishment of a vegetated buffer zone to protect aquatic resources corridors and stream habitat enhancement will also be considered. A Joint Application for Permit to the US Army Corps of Engineers (USACE) and the New York State Department of Environmental Conservation (NYSDEC) for a Section 404 permit and Section 401 Water Quality

Certification will be submitted during final design. The project will be designed to comply with the USACE general conditions and regional conditions in effect at that time. As described in Section IV.B.3.b(i) of the FDR/FEIS, NYSDOT will develop a comprehensive Stormwater Pollution Prevention Plan in accordance with the New York State Stormwater Management Design Manual and SPDES General Permit Requirements. This will include appropriate Stormwater Management Practices (SMP's) to meet pollutant removal goals. Consideration for SMP's will include, but not be limited to ponds, constructed stormwater wetlands, and open channel (wet or dry swales). Constructed wetland SMP's, if used, will not impact existing wetland areas, nor will be used as mitigation for impacts to existing wetland areas. Construction plans will be developed in accordance with NYSDOT Standard Specifications and details regarding soil erosion and sediment control.

Wetlands –Wetland impacts are discussed in Appendix G to the FDR/FEIS, and are summarized in the FDR/FEIS in Section IV.B.3.a.(ii). There are no NYSDEC wetlands identified within 100 feet of the project area. As shown in Table IV-12 and summarized on Table IV-13a of the FDR/FEIS, Alternative 2C(1) has unavoidable direct impacts to 7751 m^2 (1.92 acres) of Federal jurisdictional wetlands. Fragmentation and drainage modifications associated with roadway construction is expected to result in approximately 619 m^2 (0.15 acres) of indirect impacts to Federal jurisdictional wetlands. There is no practicable alternative that would meet the stated objectives of the proposed project and completely avoid all wetland areas. The selected alternative was designed to avoid and minimize impacts to wetlands primarily through steeper fill slopes and by making adjustments to proposed alignments and curve radii. A wetland mitigation plan which meets the regulatory requirements will be prepared in consultation with the regulatory agencies. The mitigation design and monitoring requirements set forth by the agencies and the USACE New York District "Compensatory Wetland Guidelines and Mitigation Checklist for Review of Mitigation Plans" will be followed to achieve a goal of zero net loss of wetland functions and values. The FDR/FEIS used a target wetland mitigation ratio of 2 to 1. The mitigation areas will be designed to be constructed at the same time the project-related impacts will occur. These Federal jurisdictional wetlands fall under the jurisdiction of Section 404 of the Clean Water Act. A Joint Application for Permit to the USACE and the NYSDEC for a Section 404 permit and Section 401

Water Quality Certification will be submitted during final design. The project will be designed to comply with the USACE general conditions and regional conditions in effect at that time.

The selected alternative was reviewed for compliance with Executive Order 11990, Protection of Wetlands and the U.S. DOT Order 5660.1A. Besides Clean Water Act-jurisdictional wetlands, the selected alternative will directly impact an additional 3036 m^2 (0.76 acres) of non-jurisdictional (isolated) wetlands as shown in Table IV-12 and summarized in Table IV-13a of the FDR/FEIS for a total direct impact to 10787 m^2 (2.68 acres) of wetland area. There are no indirect impacts to non-jurisdictional wetlands within the project area. Based upon the above considerations, FHWA issued an Executive Order 11990, Protection of Wetlands Statement on July 21, 2008 that determined that there is no practicable alternative to the proposed construction in wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.

Noise Levels: Based on a noise analysis included as Appendix J and described in Section IV.B.3.h(ii) of the FDR/FEIS, the project will result in noise impacts to one residence for the Design Year 2030. The No-Build Alternative would also have resulted in impacts to one residence. An abatement analysis was conducted in accordance with 23 CFR 772 for the impacted residence. The analysis concluded that noise barriers were not reasonable due to too few residences being benefited versus the cost of barrier.

Floodplains: Alternative 2C(1) was designed to minimize impacts to floodplains primarily through steeper fill slopes and by making adjustments to proposed alignments and curve radii. Appendix H to the FDR/FEIS and Section IV.B.3.a.(vi) of the FDR/FEIS provide rules developed to guide the design of encroachments and waterway crossings involving the Wallkill River and Phillipsburg Creek. These include:

1) Maintain the existing Theoretical Grade Line (TGL) for both lanes of NYS Route 17 at their present elevations within the Wallkill River flood plain.
2) For the proposed widening of the NYS Route 17 bridge over the Wallkill River, keep the proposed waterway opening the same size as the existing waterway opening.

3) Minimize encroachment of the proposed toe of fill slopes into the Wallkill River floodway fringe area (the area between the floodway boundary and flood plain boundary).
4) Set the new East Main Street profile at or above the existing profile.
5) Provide new crossings of Phillipsburg Creek that completely span the floodway.

In accordance with Executive Order 11988, the impacts of the Preferred Alternative on the floodplain were evaluated and FHWA determined that the project will not constitute a significant floodplain encroachment.

Endangered Species Act: A Biological Assessment Report prepared for the project is included as Appendix M and described in Section IV.B.3.c of the FDR/FEIS. It includes a review of potential impact to the Indiana bat (*Myotis sodalis*), a federally protected and state-listed endangered species. One hibernaculum has been identified 10 miles from the project area and another approximately 31 miles from the project area. However, the project area is expected to provide summer roosting habitat and foraging activities. Based on field surveys, page IV-67 of the FDR/FEIS indicates that an estimated 21 potential roost trees would be directly impacted by the selected alternative. An additional 6 potential roost trees would be indirectly impacted as they would be fragmented from the adjacent upland forest area by the selected alternative as presented on page IV-68 of the FDR/FEIS. Avoidance and minimization of potential impacts to Indiana bat and its habitat to be incorporated into construction plans for the project include limitation of tree removal in potential summer roosting Indiana bat habitat to the period of October 1 through March 31, prevention of incidental tree removal during construction activities through protective fencing and plan notations, and minimization of trees being removed through steeper slopes and reduced curve radii. The Biological Assessment therefore concluded that the project "may affect, but is not likely to adversely affect" the Indiana bat. Mitigation will include incorporating preferred roosting trees and hedgerows into final landscape plans, and placement of artificial bat roosts (bat boxes) in accordance with project conservation measures identified in the project Biological Assessment Report.

Community Resources: Agency and public comments following the DDR/DEIS included concerns for adverse impacts from emergency responders and local businesses. These are summarized in Section B above. Those impacts were avoided by abandoning Alternative 2C Modified as the preferred alternative in favor or Alternative 2C(1). In a letter dated August 17, 2007, the NYS Police supported the selected alternative, Alternative 2C(1). No comments were received from agencies or the public against implementing Alternative 2C(1). Representatives of Orange County, the Town of Wallkill and local businesses were informed of the decision to proceed with Alternative 2C(1) in January 2008. No further comment has been received with regard to that decision.

Hazardous Waste and Contaminated Material: There are seven sites of concern with regard to hazardous waste and contaminated materials for the selected alternative. These sites are discussed in Appendix K of the FDR/FEIS, and are summarized in the FDR/FEIS in Section IV.B.3.i, and include two gas stations, four residential/commercial properties, and the area adjacent to New York State Police Troop F at 55 Crystal Run Road. The Phase II work recommended in the FDR/FEIS for these sites will occur prior to construction/demolition. Any hazardous waste/contaminated materials, including asbestos, that are encountered will be handled and disposed of in accordance with appropriate Federal (e.g., OSHA) and State (e.g. NYSDEC, New York State Department of Labor) requirements.

Visual Resources: Impacts to the visual environment are documented in a Visual Impact Analysis that is included as Appendix I to the FDR/FEIS and summarized in the FDR/FEIS in Section IV.B.3.e. Impacts to the visual environment are anticipated from the removal of vegetation and the expansion of the perceived width of the NYS Route 17 corridor. The impacts from vegetation removal have been avoided and minimized through steeper slopes and reduced curve radii. Impact will be mitigated during final design using a combination of design techniques including 1) plantings to establish naturalistic vegetation patterns when abandoning sections of road or creating new embankments; 2) installing plantings to screen the secondary roads from NYS Route 17; 3) utilizing retaining walls and minimizing the number of cuts or fills to reduce the amount of clearing required for the new roadways; and 4)

providing surface texture treatments to concrete abutment/ retaining walls to "naturalize" their look to blend better with the existing surroundings.

Air Analysis: A mesoscale air quality analysis was performed for the project. The analysis is presented in Appendix L to the FDR/FEIS and is summarized in the FDR/FEIS in Section IV.B.3.h(i). It concluded that no further analysis is required. The project is from a conforming Transportation Improvement Plan and is appropriately addressed in Orange County Transportation Council's regional emissions analysis for transportation conformity.

In an effort to avoid or minimize impacts Transportation Demand Management (TDM) opportunities to reduce traffic congestion impacts and impacts from growth in the area will be incorporated into the project. This includes a park and ride facility for approximately 75 to 90 parking spaces and provisions for buses. To lower air emissions during construction, consideration will be given to requiring the use of construction equipment retrofitted with diesel particulate filters/diesel oxidation catalysts and the use of ultra-low sulfur diesel fuel. Particulates will be controlled through the wetting of soil surfaces and covering of trucks and other dust sources. Also, consideration will be made to include a limitation on the amount of time that construction equipment may idle on the site. See the discussion in Section F, Comments on the FEIS.

Energy Analysis: An energy analysis was completed for the project in accordance with the NYSDOT Energy and Greenhouse Gas Analysis Guidance for Project-Level Analysis, 2003. The analysis is presented in Appendix P to the FDR/FEIS and is summarized in the FDR/FEIS in Section IV.B.3.h(iii). The analysis estimated the impact from direct vehicle energy (6.82×10^{11} Btu of total 2030 consumption), indirect maintenance energy (3.76×10^{9} Btu of total annual maintenance energy) and indirect construction energy (8.71×10^{10} Btu annualized construction energy). These were translated into the direct (1.44×10^{13} tons of carbon) and indirect (1.98×10^{12} tons of carbon) production of greenhouse gases. To avoid or minimize impacts, energy conservation measures that will be implemented include the promotion of open space by the construction of the boat access area, the

reduction of traffic congestion and delays, and the implementation of an improved traffic signal coordination plan using light emitting diode (LED) technology. Also, the same measures to minimize impacts to air quality during construction will help to minimize energy usage as well.

Indirect/Secondary and Cumulative Impacts: Indirect and cumulative impacts are discussed in Appendix Q to the FDR/FEIS, and are summarized in the FDR/FEIS in Section IV.B.4. Discussion included impacts to the following 13 areas of concern: land use; social/economic; wetlands; water source quality; flood plains; ecology and wildlife; historic and cultural; visual; parks and recreational facilities; farmland; air quality; noise; and energy. The FHWA and NYSDOT have little authority or jurisdiction over most of the areas regarding potential indirect and cumulative impacts. It is anticipated that existing regulations and developed planning mechanisms will be used to minimize impacts to the affected resources. Coordination, under the Public Involvement Process, shall be conducted during Detailed Design with local and regional planning leaders to further explore mitigation alternatives for some of the trends identified in the FDR/FEIS. One of these would be for the Town of Wallkill to adopt a Wellhead Protection Plan to project groundwater resources. Another would be to establish a riparian buffer to protect habitat along the Wallkill River Corridor. This could be done in conjunction with the construction of the canoe launch that is part of the project. It may also add to the potential for a cooperative effort among private property owners to develop hiking and walking paths in this corridor. Potential indirect and cumulative impacts would also be minimized from a continuation of the current effort at watershed planning led by the Orange and Ulster County Soil and Water Conservation Districts. The Town of Wallkill could also promote noise compatible land use planning.

Construction Impacts: Construction impacts from the project are discussed in Section IV.B.3.j of the FDR/FEIS. In an effort to reduce the effects of construction on the community, incentives and disincentives will be considered to induce the contractor to work as quickly as possible. Although intermittent lane closures will be needed during off-peak hours, the same number of lanes will be maintained during construction as they exist now. Area schools, hospitals, police, fire departments and other community representatives will be advised of changes in traffic patterns and detours during

construction. Nighttime operations will be reviewed during detailed design as a means to reduce congestions due to construction. This will also limit adverse air emissions. Other techniques to reduce air emissions during construction are included under Air Analysis, above. Noise impacts will be minimized during construction through techniques such as the use of muffling and equipment maintenance and by keeping noisy elements in less sensitive areas as much and possible. Construction-generated dust will be minimized by using such techniques as applying water or moisture-retaining agents on dirt roads and covering haul trucks that carry loose material. Erosion and sediment control measures will be developed in accordance with NYSDOT Standard Specifications. Proper maintenance procedures on the construction site will be enforced to prevent contamination of soil or groundwater from leaking construction equipment or temporary on-site sanitary storage facilities. Should any spill contamination be encountered during construction, the contaminated soils will be handled in accordance with NYSDOT standard specifications for identifying, handling, and disposing of petroleum and contaminated soil.

E. Monitoring or Enforcement Program

The project will be subject to further review by Federal and State Agencies. Permits will be required from the US Army Corps of Engineers and the New York State Department of Environmental Conservation. This project will be constructed in compliance with a Stormwater Pollution Prevention Plan prepared pursuant to SPDES General Permit (GP-0-08-001). These approvals and permits will ensure that mitigation measures and monitoring related to the waters of the United States, including wetland mitigation, stormwater management and erosion and sediment control, will be carried out for construction of the project. The Section 106 Memorandum of Agreement includes stipulations to ensure that landscaping will be designed and planted to minimize visual impacts of the project on the setting of 758 East Main Street and a Data Recovery Plan will be used for the mitigation of adverse effects on archaeological resources in the Wallkill Prehistoric Archaeological District.

F. Comments on Final EIS

The FHWA and NYSDOT received one comment letter during the 30-day review period after publication of the FDR/FEIS.

Letter from the United States Environmental Protection Agency dated September 8, 2008

Comment #1. The letter states,

> "Given that this is a new Preferred Alternative, the FEIS should have contained more detailed information for several impact areas. We are therefore requesting that the information be included in the Record of Decision as discussed further below."

Response #1. While Alternative 2C(1) was "newly preferred" in the FDR/FEIS, it was not a new alternative. Analyses in both the DDR/DEIS and FDR/FEIS were equally applied to all of the considered alternatives. In addition to equally applying analyses for all considered alternatives an extended analysis of potential wetland mitigation sites for alternative 2C(1) was conducted after the decision was made to recommend it as the preferred alternative. The extended analyses was made in preparation for the March 19, 2008 Agency Coordination Meeting where 2C(1) was presented as the preferred alternative. The potential wetland mitigation sites were not a factor in the selection of the preferred alternative. The information "discussed further" in the EPA letter is responded to in the following numbered comments.

Comment #2. The letter notes the change in the FDR/FEIS with regard to the need to relocate Phillipsburg Creek and construct a new culvert under NYS Route 17 to the west of the existing culvert. The comment notes that the Wallkill River is a Class B surface water body and Philipsburg Creek is a tributary to it, and that a segment of the river is listed on the Nationwide Rivers Inventory. The comment notes that impacts associated with this change to the project should have been addressed more fully in the report, including the direct and indirect impacts to surface waters, wetlands, fisheries and their habitat.

Response #2. With regard to the aspect of this comment linked to comment #1, page IV-27 of the FDR/FEIS notes that this change is common to all of the build alternatives, and that it will increase the

channel length by less than 7 percent, remove 62 meters (203 feet) of box culvert that currently provides no gravel channel substrate, provides a new bottomless culvert or embedded culvert, and provides a new natural stream channel with a natural stream bottom and bioengineered channel. The additional length of stream channel and the replacement of a traditional box culvert with a natural stream bottom will be an enhancement to the existing aquatic habitat, and will reduce overall erosion potential. Tables IV-11 and IV-11a, as shown below, are updated with an estimate of impacts to the existing segments of Phillipsburg Creek resulting from the relocation. Considering that the impacts to the section of Phillipsburg Creek and culvert carrying NYS Route 17 over are common to all alternatives, the estimated Total Stream Impacts are the lowest for Alternative 2C(1) in Tables IV-11 and IV-11a. These changes have also been included in a revised Table IV-22. These revised tables IV-11, 11a and 22 are incorporated into the Record of Decision as part of the response to EPA Comment #2 and will not be incorporated as an errata into the FDR/FEIS which was published August 8, 2008.

TABLE IV-11
Proposed Linear Impact to Streams

Alternative	Linear Impacts in meters (ft)					
	Phillipsburg Creek				Intermittent Stream	Total
	OHWM A	OHWM B	OHWM C	OHWM E	OHWM F	
Alternative 2C	120 (394)	*85 (279)*	*125 (410)*	- 0 -	78 (256)	*408 (1,339)*
Alternative 2C Modified	121 (397)	*85 (279)*	*125 (410)*	-0-	57 (187)	*388 (1,273)*
Alternative 2C(1)**	88 (289)	*85 (279)*	*125 (410)*	- 0 -	65 (213)	*363 (1,191)*
Alternative 2C(2)	81 (266)	*85 (279)*	*125 (410)*	112 (367)	66 (217)	*469 (1,539)*
Alternative 2E	22 (72)	*85 (279)*	*125 (410)*	107 (351)	57 (187)	*396 (1,299)*

* See plan sheets (Appendix D) for the stream impact locations associated with each alternative
** These estimates include the impact to the existing portion of Phillipsburg Creek for the relocation of the creek under NYS Route 17.*
***Alternative 2C(1) is the selected alternative*
Note: Changes made from the Final DR/FEIS are in italics.

TABLE IV-11a
Proposed Fill Areas within the Ordinary High Water Mark of Streams

Alternative	OHWM Impacts in square meters (acres)					
	Phillipsburg Creek				Intermittent Stream	Total
	OHWM A	OHWM B	OHWM C	OHWM E	OHWM F	
Alternative 2C	881 (0.22)	*360 (0.09)*	*700 (0.17)*	- 0 -	253 (0.06)	*2194 (0.54)*
Alternative 2C Modified	884 (0.29)	*360 (0.09)*	*700 (0.17)*	-0-	91 (0.02)	*2035 (0.50)*
Alternative 2C(1)**	579 (0.14)	*360 (0.09)*	*700 (0.17)*	- 0 -	215 (0.05)	*1854 (0.45)*
Alternative 2C(2)	504 (0.12)	*360 (0.09)*	*700 (0.17)*	1,119 (0.28)	306 (0.08)	*2989 (0.74)*
Alternative 2E	149 (0.04)	*360 (0.09)*	*700 (0.17)*	1,045 (0.26)	184 (0.05)	*2438 0.61*

* See plan sheets (Appendix D) for the stream impact locations associated with each alternative.
** These estimates include the impact to the existing portion of Phillipsburg Creek for the relocation of the creek under NYS Route 17.*
***Alternative 2C(1) is the selected alternative*
Note: Changes made from the Final DR/FEIS are in italics.

TABLE IV-22
Summary of Impacts to Ecological Resources

Resource	BUILD ALTERNATIVE IMPACTS				
	2C	2C Modified	2C(1)**	2C(2)	2E
Wallkill River[1]	1,751 sm (18,848 sf)	1,842 sm (19,827 sf)	1,808 sm (19,461 sf)	1,893 sm (20,376 sf)	945 sm (10,172 sf)
Linear Impacts to Phillipsburg Creek[2]	*330 m (1,083 ft)*	*331 m (1,086 ft)*	*298 m (978 ft)*	*403 m (1,322 ft)*	*339 m (1,112 ft)*
Area Impacts to Phillipsburg Creek[3]	*1941 sm (0.48 ac)*	*1944 sm (0.48 ac)*	*1639 sm (0.40 ac)*	*2683 sm (0.66 ac)*	*2254 sm (0.56 ac)*
Linear Impacts to Intermittent Stream[2]	78 m (256 ft)	57 m (187 ft)	65 m (213 ft)	66 m (217 ft)	57 m (187 ft)
Area Impacts to Intermittent Stream[3]	25 sm (269 sf)	25 sm (269 sf)	25 sm (269 sf)	20 sm (883 sf)	20 sm (215 sf)
Area Impacts to Wetlands[4]	13,132 sm (3.26 ac)	9,723 sm (2.42 ac)	11,406 sm (2.83 ac)	11,487 sm (2.83 ac)	7,028sm (1.72ac)
Forested Habitat[5]	116,040 sm (28.67ac)	103,766 sm (25.64ac)	62,102 sm (15.35 ac)	82,343 sm (20.35 ac)	75,283 sm (18.60 ac)

[1]Wallkill River – Increase in area covered by widening of NYS Route 17 Wallkill River bridges.
[2]See Table IV-11, [3]See Table IV-11a, [4]See Table IV-12, [5]See Table IV-20
***Alternative 2C(1) is the selected alternative*
Note: Changes made from the Final DR/FEIS are in italics.

Impacts from the relocation would have no direct or measurable indirect impacts on the Wallkill River or on the ability of the NRI segment of the Wallkill River (downstream of the NYS Route 17 bridge) to become a Wild, Scenic or Recreational river segment in the future. There would be temporary impacts during construction, as would be the case with all of the other proposed improvements. Construction impacts would be minimized using appropriate erosion and sediment control practices.

Comment #3. The letter states that key components of the approach to integrate bioengineering strategies into the stream relocation include creating a natural (e.g. meandering) channel, preserving and enhancing the aquatic and wildlife habitat, and providing a means for wildlife to safely access the site. The EPA recommends that consideration be given to additional potential streambank bioengineering strategies including using natural, locally available materials (such as earth, rock and vegetation) and biodegradable erosion control fabric.

Response #3. The relocation will add some length to the existing channel (Response #2), which will serve the same function as a meander. Additional aspects of bioengineering mentioned, will be considered during final design. This will include a review of the NYSDOT Engineering Instruction 02-020, which discusses inclusion of special specifications pertaining to soil bioengineering/biotechnical erosion control methods applied on disturbed sites, including slopes with streambanks. During final design of the project the incorporation of natural, locally available materials into the construction items will be evaluated and utilized where practical and available.

Comment #4. With regard to the mitigation of wetland impacts, the letter states that NYSDOT should develop and implement a maintenance and monitoring plan to ensure that the objectives of the stream relocation and wetlands creation are met over time.

Response #4. The NYSDOT will include a maintenance and monitoring plan as part of the Joint Application for Permit to the USACE and the NYSDEC for the Section 404 permit and Section 401 Water Quality Certification. Monitoring will include, but not necessarily limited to, providing annual

reports on the status of the compensatory mitigation activities in each of the following five (5) years after initiation of the activities. The annual reports will report on the success of the wetland mitigation site; the report will note the dominant plant species, provide vegetation cover maps, provide data on water elevations, and note any remedial action that may be necessary. The proposed nursery stock plantings shall have an 85% survival rate in the wetland mitigation area and the wetland mitigation areas shall have an 85% coverage rate of hydrophytic plants. The vegetation in the newly established wetland shall not consist of more than 5% aerial coverage of invasive plant species.

Comment #5. The letter referenced green highways elements that have been incorporated into the project, including wetland creation, stream restoration, preserved riparian buffers and control of non-native species. The letter lists other green highway practices that may be feasible including:

- innovative stormwater best management practices: bioretention, below grade infiltration, porous pavement
- environmentally-friendly concrete: minimize use of Portland cement and natural rock and substitute recovered mineral components (e.g. ground granulated blast-furnace slag, coal combustion fly ash and silica fume) in cement and concrete; maximize the use of recycled concrete and water
- air emissions reductions: construction equipment retrofitted with diesel particulate filters/diesel oxidation catalysts and use of ultra-low sulfur diesel fuel.

Response #5. As stated earlier in this ROD, NYSDOT will develop a comprehensive Stormwater Pollution Prevention Plan in accordance with the New York State Stormwater Management Design Manual and SPDES General Permit Requirements. The New York State Stormwater Management Design Manual does include bioretention practices and below grade infiltration. Below grade infiltration will be considered in areas where there is limited space available. Porous pavement will be considered for the proposed boat launch facility and Park and Ride facility depending on the existing soil conditions for those areas. The use of environmentally-friendly concrete will be further investigated

during final design. There is currently a draft Engineering Instruction being reviewed by NYSDOT for some of the suggested air emissions reduction practices during construction.

NYS DOT has developed the GreenLites program to recognize and encourage the incorporation of a high level of environmental sustainability. The GreenLites program is modeled after the Leadership in Energy and Environmental Design (LEED) rating system. GreenLites purpose is to recognize the sustainable methods and practices NYSDOT already incorporates in its projects' designs and to expand the use of these and other innovative practices that will contribute to advancing New York's transportation and environmental sustainability. Through this program the use of green highway elements will be further investigated during final design. Additional information can be obtained by viewing the GreenLites website at: www.nysdot.gov/programs/greenlites

Comment #6. The letter states that NYSDOT concluded that the nearest air quality monitor (Newburgh Fire Department) registered an annual $PM_{2.5}$ concentration below the National Ambient Air Quality Standard of 15 micrograms per cubic meter without specifying any actual monitored values. It recommended that this data be included in any future project documentation.

Response #6. The annual $PM_{2.5}$ concentration at air monitoring sites in New York is reported on the NYSDEC website at http://www.dec.ny.gov/docs/air_pdf/pm25datasum2q07.pdf . The annual $PM_{2.5}$ concentration at the Newburgh site was 9.62 $\mu g/m^3$ for 2006. This $PM_{2.5}$ level is below the 15 $\mu g/m^3$ standard for the annual average.

Comment #7. The letter stated that although the FDR/FEIS noted that pedestrian and bicycle access to NYS Route 17 and Interstate 84 are prohibited and that there are no plans for protected bicycle traffic along any of the county or local roads in the project area, there may still be Transportation Demand Management (TDM) opportunities. The letter states that the park and ride being considered should be incorporated into the project along with other TDM measures. The letter also states that to the extent practicable, the project design should allow for future development of pedestrian and bicycle links.

Response #7. Section III.C.2.q on page III-73 of the FDR/FEIS discusses the park and ride facility that will be incorporated into the final design of the project.

As noted in Section III.C.2.n on page III-70 of the FDR/FEIS, pedestrian roadway crossing could be provided in the future except at certain locations listed because of the significant detrimental impact that these would have on the Level of Service (LOS) at those locations. As noted in Section III.C.2.o on page III-72 of the FDR/FEIS, provisions will be provided for bicycles in the form of shared use wide curb lanes with a width of 4.2 m (14 ft) for Crystal Run Road, Crystal Run Crossing, East Main Street, and Ballard Road. Section III.C.2.d on page III-57 of the FDR/FEIS notes that the East Main Street Bridge over NYS Route 17 will be widened 3.0 m (10 ft) on each side to accommodate future sidewalks. In summary, per the FDR/FEIS the design will allow for future development of pedestrian and bicycle facilities on the surrounding roadways by local transportation agencies.

In further response to EPA's comment the NYSDOT recognizes the need to provide additional Transportation Demand Management (TDM) measures where design is practicable. To this extent, during Detailed Design the project shall incorporate additional width behind the curb on at least one side of the roadway for East Main Street and Crystal run Road. This will provide a continuous area for a future sidewalk to link potential pedestrian access along East Main Street and Crystal run Road.

G. Conclusion

Based on the analysis and evaluation contained in this project's Final Design Report/Final Environmental Impact Statement, and after careful consideration of all the social, economic and environmental factors and input from the public involvement process, it is my decision to adopt **Alternative 2C(1) – Ramp Interchange with Signalized Intersections** as the proposed action for this project.

H. Statute of Limitations Regarding Decision

A Federal agency may publish a notice in the Federal Register, pursuant to 23 USC Section 139(1), indicating that one or more Federal agencies have taken final action on permits, licenses, or approvals for a transportation project. If such notice is published, claims seeking judicial review of those Federal agency actions will be barred unless such claims are filed within 180 days after the date of publication of the notice, or within such shorter time period as is specified in the Federal laws pursuant to which judicial review of the Federal agency action is allowed. If no notice is published, then the periods of time that otherwise are provided by the Federal laws governing such claims will apply. It should be noted that FHWA-NY Division intends to pursue this provision by publishing a notice in the Federal Register.

12/18/08

Date

Jeffrey W. Kolb, P.E.
Division Administrator
New York Division Office
Federal Highway Administration

U.S. Department
of Transportation
Federal Highway Administration

New York Division

Leo W. O'Brien Federal Building, Suite 719
Clinton Avenue & North Pearl Street
Albany, NY 12207

December 19, 2008

In Reply Refer To:
HDO-NY

Mr. Steve Zargham, Director
Design Quality Assurance Bureau, POD 23
New York State Department of Transportation
50 Wolf Road
Albany NY 12232

Subject: PIN 8006.72, NY Route 17 upgrade to I-86, Exits 122, Towns of Wallkill, Orange County - Record of Decision

Dear Mr. Zargham:

The Record of Decision (ROD) for the Final Environmental Impact Statement (FEIS) has been approved by the FHWA Division Administrator and is attached for your documentation. Approval of the ROD also constitutes FHWA granting of Design Approval and approval of sub-standard features for this project. Additionally, we will proceed with publishing the statue of limitations in the Federal Register in accordance with the conditions of the ROD. If you have any questions, regarding the above, please contact me at 518-431-4125 X225.

Sincerely,

Chris Gatchell
District Engineer

Enclosure